IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9685 OF 2003

Bharat Manikchand Doshi
& Anr. .. Petitioners.

vs.

Smt. Padmabai Jawahir Doshi
& Ors. . .. Respondents.

Mr. Sagar A. Joshi i/by A.A. Joshi
for petitioners.

CORAM : A.P. DESHPANDE, J.

DATE : 8th November, 2006.

P.C.

. One Manikchand Motichand Doshi had instituted a suit for possession against the original defendants by contending that the occupation of the defendants was gratuitous and they were licensees in permissive occupation of the suit premises. During pendency of the suit, the original plaintiff expired. It appears that the deceased had more than one wives and the petitioners claim to be the sons of Manikchand Doshi from one of his wives. The petitioners are claiming title to the property on the basis of a registered will. The respondent

nos. 6 to 15 are also claiming to be the heirs of the deceased Manikchand Doshi and claim title to the property by natural succession. As the petitioners and respondent nos. 6 to 15 made conflicting claim to the title, the Court below permitted bringing the present respondent nos. 6 to 15 so also the petitioners as LRs of the deceased. Both the groups claiming title are impleaded as LRs of the deceased. It is this order passed by the trial Court which is challenged by filing the writ petition. The position i law is very clear that an order passed under order 22 rule 5 is neither conclusive nor does it operate as res judicata. The dispute in regard to the title in between the heirs is required to be adjudicated in separate proceedings. Impleading all LRs in place of deceased under order 22 rule 5 is with a view to continue the proceedings.

2. As the impugned order does not prejudicially affect the petitioners, no interference with the same is called for. Even otherwise, I am of the view that the trial Court has rightly directed impleadment of both the groups as LRs of the deceased. In this view of the matter, no interference is called for. The petition is summarily dismissed.

(A.P. Deshpande, J.)